

REMARKS/ARGUMENTS

The following remarks are submitted in response to the non-final Office Action mailed December 15, 2006, setting a three-month shortened statutory period for response ending March 15, 2006. Claims 1-65 remain pending in the Application. Reconsideration, examination, and allowance of all pending claims are respectfully requested.

35 U.S.C. §103 Rejections

On page 2 of the Office Action, the Examiner rejected claims 1-65 under 35 U.S.C. §103(a) as being obvious in view of Voda (U.S. Patent Publication No. 2002/0103474). Applicant respectfully traverses this rejection. In order for a reference to render a claim obvious, each and every element of the claim must be present in the reference. See M.P.E.P. 2143.03.

On page 4 (paragraph 7) of the Office Action, it appears as though the Examiner admits that Voda '474 fails to disclose each and every element of the claims. However, in part 8 of the Office Action it is still asserted that the claims are obvious in view of Voda '474. Part 8 of the Office Action appears to assert that the current claims would be a mere design choice of the device disclosed in Voda '474, and that "a device having the claimed relative dimensions would not perform differently than the prior art device." The Applicant cannot ascertain exactly what provisions of the patent laws and/or regulations the Examiner is using in this rejection, but the Applicant asserts that the statement made in paragraph 8 of the Office Action incorrectly characterizes the invention recited in the present claims.

Specifically, the Applicant respectfully points out that the Examiner is incorrect in stating that a device having the claimed structure would not perform differently than the devices described in Voda '474. For example, claim 1 recites, in part, a first segment of a preformed

ostium entry section that lies in a sagital plane or to the patient's right of such sagital plane of the support section when the first segment extends anteriorly from the preformed support section, and a second segment of a preformed ostium entry section that extends back toward such sagital plane. In paragraph [0032] of the application, it is stated:

The three dimensional configuration of the present invention allows distal tip 22 to be inserted into the ostia of the right coronary arteries across a range of morphologies. This is accomplished, in part, because distal tip 22 and second segment 20 are coaxial with the axis of the right coronary artery when properly positioned. This coaxial arrangement reduces trauma to the right coronary artery when the catheter is positioned in the right coronary artery and allows the distal tip 22 to be inserted deeper into the right coronary artery. Moreover, angle α_f creates a deviation of the second segment 20 to the patient's left (when tip 22 is directed anteriorly of a patient). This deviation to the left allows distal tip 22 to follow (rather than lead if there was a deviation to the right) when catheter 2 is torqued in the customary clockwise direction. (emphasis added)

As stated above, there is actually a functional difference between the claimed catheter structure (which, in the above paragraph, has a deviation to the left) and the catheter design of the prior art device described in Voda '474 (which, in the above paragraph, has a deviation to the right). As such, it is incorrect to state that the structure recited in claim 1 does not perform differently than the structure of the device disclosed in Voda '474.

Again, the Applicant is unsure of exactly what provisions of the patent laws and/or regulations on which the Examiner is basing the current rejection, but the statement that the structure of current claim 1 is a mere design change that does not perform differently than the devices disclosed in Voda '474 is simply incorrect. Applicant asserts that all elements of claim 1 are not disclosed in Voda '474 and claim 1 is not a mere design choice of Voda '474. For at least these reasons, Applicant asserts that claim 1 is allowable over this reference. Because they are dependent on claim 1 and because they contain additional patentably distinct elements, Applicant also asserts that claims 2-13 are also allowable over this reference.

Claim 14 recites, in part, first and second segments of a preformed ostium entry section that are initially offset in different directions from an imaginary plane including at least the abutment segment of the preformed support section. Again, this arrangement does not appear to be disclosed in Voda '474, and such a design would lead to different functionality compared to the design disclosed in Voda '474. For at least these reasons, Applicant asserts that claim 14 is allowable over this reference. Because they are dependent on claim 14 and because they contain additional patentably distinct elements, Applicant also asserts that claims 15-27 are also allowable over this reference.

Claim 28 recites, in part, a preformed ostium entry section with a distal tip, the preformed ostium entry section shaped such that the distal tip follows a plane that includes the abutment segment and a point of connection between the first segment and the second segment. Again, this arrangement is not disclosed in Voda '474, and such a design would lead to different functionality compared to the design disclosed in Voda '474. For at least these reasons, Applicant asserts that claim 28 is allowable over this reference. Because they are dependent on claim 28 and because they contain additional patentably distinct elements, Applicant also asserts that claims 29-36 are also allowable over this reference.

Claim 37 recites, in part, a preformed ostium entry section extending from the support section and including a first segment extending from an abutment segment such that the abutment segment abuts an interior surface of the patient's ascending aorta in a plane formed by a tangent of an axis of the first segment when the catheter is positioned within the ostium of the right coronary artery. Again, this arrangement is not disclosed in Voda '474, and such a design would lead to different functionality compared to the design disclosed in Voda '474. For at least these reasons, Applicant asserts that claim 37 is allowable over this reference. Because they are

dependent on claim 37 and because they contain additional patentably distinct elements, Applicant also asserts that claims 38-46 are also allowable over this reference.

Claim 47 recites, in part, a preformed ostium entry section extending from the support section and including a first segment, extending from the abutment segment, and a second segment, extending from the first segment, the second segment terminating in a distal tip, such that when the distal tip is positioned in the ostium of the right coronary artery the first segment and the second segment lie anterior of to the support section. Again, this arrangement does not appear to be disclosed in Voda '474, and such a design would lead to different functionality compared to the design disclosed in Voda '474. For at least these reasons, Applicant asserts that claim 47 is allowable over this reference. Because they are dependent on claim 47 and because they contain additional patentably distinct elements, Applicant also asserts that claims 48-56 are also allowable over this reference.

Claim 57 recites, in part, a catheter with a distal tip wherein, when the distal tip is positioned within the ostium of the right coronary artery, the abutment segment abuts an interior surface of the patient's ascending aorta in a plane formed by a tangent of an axis of the first segment and the second segment is coaxial to an axis of the patient's right coronary artery. Again, this arrangement is not disclosed in Voda '474, and such a design would lead to different functionality compared to the design disclosed in Voda '474. For at least these reasons, Applicant asserts that claim 57 is allowable over this reference. Because they are dependent on claim 57 and because they contain additional patentably distinct elements, Applicant also asserts that claims 58-65 are also allowable over this reference.

Reexamination and reconsideration are respectfully requested. It is submitted that all pending claims 1-65 are currently in condition for allowance. Issuance of a Notice of Allowance

in due course is anticipated. If a telephone conference might be of assistance, please contact the undersigned attorney at 612-677-9050.

Respectfully submitted,

Jan K. Voda

By His Attorney

Date:

April 16, 2007

Glenn M. Seager, Reg. No. 36,926
CROMPTON, SEAGER & TUFTE, LLC
1221 Nicollet Avenue, Suite 800
Minneapolis, Minnesota 55403-2420
Tel: (612) 677-9050